IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Sukhdev Singh v. State of Raj. & Ors.

S.B.CIVILWRIT PETITION No.3845/1994
under Article 226 of the Constitution of India.

Date of Order : 21st March, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. B.S.Sandhu, for the petitioners.
Mr. Sudhir Sharma, for the respondents.
Mr. L.R.Upadhyaya, Dy.Govt.Advocate.

BY THE COURT :

This petition for writ is preferred by the petitioner challenging judgment dated 6.6.1994 passed by Collector, Sriganganagar accepting revision petition preferred by respondent Jeet Singh under Section 27-A of the Rajasthan Panchayati Raj Act, 1959 (hereinafter referred to as “the Act of 1959”) read with Rule 272 of the Rajasthan Panchayat (General) Rules, 1961 (hereinafter referred to as “the Rules of 1961”).

The facts in brief are that a piece of land was allotted to the petitioner by Gram Panchayat, Likhmisar, Tehsil Suratgarh, District

Sriganganagar after holding private negotiations under Rule 266 of the Rules of 1961.

The land was allotted and sold to the petitioner by accepting his possession over the land from a period of more than 30 years. A challenge was given to the allotment of land by Jeet Singh by way of filing a revision petition before Collector, Sriganganagar. The Collector, Sriganganagar after considering the entire record of the Gram Panchayat related to allotment of land to the petitioner reached at the conclusion that there was no occasion to adopt the procedure provided under Rule 266 of the Rules of 1961 to allot the land to the petitioner. The Collector specifically held that there was no plausible claim of the petitioner for getting allotment of land under Rule 266 of the Rules of 1961. The Collector has also given a finding that a gross violation of Rules 256 and 260 of the Rules of 1961 was made by the Gram Panchayat while making allotment of land in favour of the petitioner.

Counsel for the petitioner has contended that the order passed by the Collector deserves to be quashed as the revision petition under Section 272 was not maintainable as the order passed by Gram Panchayat an order appealable under Rule 270 (A) of the Rules of 1961. It is also contended by the counsel for the petitioner that there was no illegality in allotment of land to the petitioner under Rule 266 of the Rules of 1961 as a unanimous

decision was taken by Gram Panchayat on 21.3.1991 for allotment of land to the petitioner and 14 other persons.

I have heard counsel for the parties.

I do not find any force in the contention raised by the petitioner to the effect that the revision petition was not maintainable as the order passed by the Gram Panchayat is appealable under Rule 270 of the Rules of 1961. The powers under Rule 272 are revisional powers and the State Government or the authority competent is empowered to call the record to get himself satisfied with regard to correctness, legality and propriety of the proceedings taken place for allotment of an abadi land. The powers under Rule 272 of the Rules of 1961 cannot be restricted on the ground that the order passed by Gram Panchayat could have been appealed before Panchayat Samiti. The power conferred under Section 272 should not be exercised only if an order under Rules 265, 266, 267 or 268 of the Rules of 1961 is subject matter of appeal under adjudication.

Another contention of the petitioner is also having no force. The Collector has given a specific finding after perusing the record and I do not find any error in the same which may call any interference of this Court under Articles 226 and 227 of the Constitution of India.

Counsel for the petitioner at last has made a request that he wants to move an application for allotment of land in question to him under Rule 145 read with Rule 156 of the Rajasthan Panchayat Raj Rules, 1996 before the competent authority, therefore, a direction be given to the respondents to consider his application sympathetically. He has also made a request that a direction be given to the respondents not to dispossess him till disposal of the application filed by him for allotment of land as he is having possession over the land from last number of years and he also invested huge amount of money to develop the land in dispute.

Looking to these facts and circumstances of the case, if the petitioner moves an application under Rule 145 of the Rules of 1996, before the competent authority within a period of one month from today then the same shall be considered by the competent authority in accordance with law within a period of two months thereafter and till then the petitioner shall not be dispossessed from the land in question.

With these observations, the writ petition is disposed of.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.